

REMARKS

This Amendment is being filed in response to the Office Action dated March 2, 2007. In view of these amendments and remarks this application should be allowed and the case passed to issue. No new matter is introduced by this amendment. Support for the new claims is found throughout the specification and claims as originally filed. For example, new claim 12 is supported by claims 1 and 2, as originally filed. Support for new claims 13-20 is found in originally filed claims 4-11, respectively. Originally filed claims 1 and 3 provide support for new claim 21. New claims 22-29 are supported by originally filed claims 4-11, respectively.

Claims 12-29 are pending in this application. Claims 1-6 and 10 were rejected. Claims 7-9 and 11 were withdrawn pursuant to a restriction requirement. Claims 1-11 have been canceled in this response. New claims 12-29 have been added in this response.

Restriction

Upon allowance of the generic claims, Applicant respectfully requests consideration and allowance of all the claims depending from the allowed generic claims, in accordance with 37 C.F.R. § 1.141. It is noted that new generic independent claims 12 and 21 correspond to claims 2 and 3, respectively, from the elected Species II. Thus, new claims 12-15, 19, 21-24, and 28 read on elected Species II.

Claim Rejections Under 35 U.S.C. §§ 102 and 103

Claims 1, 3-6, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kawasumi et al. (EP 1198020). The Examiner asserted that Kawasumi et al. teach the claimed invention. As regards claim 3, the Examiner averred that the different activation temperature of the catalyst contained in a different reactor was inherent as the temperature will gradually reduce due to heat loss.

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawasumi et al. in view of Aoyama (US 2005/0089732).

These rejections are traversed, and reconsideration and withdrawal thereof respectfully requested.

Claims 1-11 have been canceled. New claims 12-29 are neither anticipated nor obvious in view of the cited references.

Initially, it is noted that Aoyama is not available as prior art under 35 U.S.C. § 103(c). Aoyama was apparently cited as prior art via 35 U.S.C. § 102(e) because it has an earlier effective filing date than the instant application and was copending with the instant application. The instant application and Aoyama was, at the time the instant invention was made, owned by the same person (NISSAN MOTOR CO. LTD.) or subject to an obligation of assignment to the same person. Ergo, by virtue of 35 U.S.C. § 103(c), Aoyama may not be relied upon to support a rejection under 35 U.S.C. § 103. (*See* MPEP § 706.02(I)(2)(II)). It is also noted that the publication date of Kawasumi et al., April 17, 2002, is later than the priority date of the present application, April 9, 2002.

The Examiner asserted that Kawasumi et al. do not disclose the claimed lean ratios. In view of the deficiencies of Kawasumi et al., and that Aoyama is not prior art, claims 12-20 are distinguishable over the cited references.

As regards claims 21-29, the Examiner has no basis for asserting that an activation temperature of a catalyst contained in a catalytic reactor is different from an activation temperature of a catalyst contained in a different catalytic reactor is inherent. Whether or not there is a temperature reduction due to a heat loss has no bearing on the catalyst activation temperature. The catalyst activation temperature is a property of the catalyst. Kawasumi et al.

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do not disclose or suggest using catalysts having different activation temperatures, as required by claim 21.

The dependent claims are allowable for at least the same reasons as the independent claims from which they depend and further distinguish the claimed warm up devices.

In view of the above amendments and remarks, Applicant submits that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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